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ADULT AND SENIOR CARE UPDATE

March 2009

This is the first issue of the *Adult and Senior Care Update* for 2009. Our goal is to provide you with timely and relevant information. We will continue to address the salient issues in the Community Care Licensing Division (CCLD) adult and senior care licensed facilities in 2009. In the meantime, we encourage your feedback. We hope you will share this *Update* with members of your organization as well as with others interested in adult and senior care issues.

MY CCL WEB PORTAL

As some of you may already know, the CCLD webpage is undergoing some exciting changes. We are pleased to announce the new "[MyCCL Web Portal](#)". This is our first step in the development of a web-based licensing information center. Take a few minutes to learn more about this new resource!

CHAPTERED LEGISLATION FOR 2008

A summary and implementation plan for each bill chaptered in 2008 that affects Residential Care Facilities for the Elderly (RCFEs) and Adult Care Facilities is now available on the CCLD website. Unless otherwise noted in the Implementation Plans, these bills became effective on January 1, 2009. Licensees are encouraged to review these plans to ensure compliance with these new laws. If you have any questions, contact your local licensing office. The implementation plans are located on the CCLD website at: <http://www.cclld.ca.gov/PG830.htm>

SENIOR CARE BEDRIDDEN REGULATIONS PUBLIC HEARING

The Senior Care Policy Unit is pleased to report that regulation package for SB 1896 (Ortiz) Chapter 817, Statutes of 2000, Bedridden Persons in RCFEs has moved to the Department's Office of Regulation Development (ORD). The Public Hearing has been scheduled for July 15, 2009. Information will be available at the ORD website at: <http://www.dss.cahwnet.gov/ord/PG321.htm>

ADULT RESIDENTIAL FACILITY AGE REGULATIONS PUBLIC HEARING

The public hearing for the Adult Residential Facility (ARF) Age Regulations is scheduled for Wednesday, April 15, 2009. All comments must be received by 5 p.m. on

April 15, 2009. The proposed regulations and the supporting documents (including information on where the public hearing will be held and how to submit comments) are available on the Internet at <http://www.dss.cahwnet.gov/ord/PG1896.htm>. Currently, licensees of ARFs may retain persons 59 years of age or older without obtaining an exception. The proposed regulations will allow licensees of ARFs to both retain *and admit* persons 60 years of age or older without obtaining an exception if certain criteria are met.

PHYSICIAN ORDERS FOR LIFE SUSTAINING TREATMENT (POLST)

POLST is a Physician's Order that outlines a plan of care reflecting a patient's wishes for end of life care. It is designed to improve the quality of care individuals receive at the end of life by ensuring that a patient's wishes, including life-sustaining medical interventions and care, are honored by health care providers. The POLST form does not replace the Advance Health Care Directive. For more information on POLST, visit the California Coalition for Compassionate Care (CCCC) website, www.finalchoices.org or www.polst.org. For information on the CCLD Implementation Plan for POLST see <http://www.cclld.ca.gov/PG830.htm>.

The CCCC is sponsoring a one-day workshop titled, "Putting POLST in Action". The workshop date is March 30, 2009 from 9:00 a.m. to 5:00 p.m. at the Sheraton Grand Hotel in Sacramento. For more information or to register see: www.finalchoices.org.

STIMULUS PACKAGE AND SOCIAL SECURITY AND SUPPLEMENTAL SECURITY INCOME BENEFICIARIES

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009 (Recovery Act). This act provides for a one-time payment of \$250.00 to Social Security and Supplemental Security Income beneficiaries. This one-time payment is scheduled for distribution in late May 2009. This is a separate payment from the SSI/SSP rate.

How does this payment affect RCFE residents?

- For residents currently receiving SSI/SSP funds directly and who have control over these funds, the resident is entitled to the entire payment to be spent at the beneficiary/resident's discretion.
- For residents whose SSI/SSP funds are controlled by another party, representative payee for example, or whose funds go directly to a facility bank account, this one time only payment must be given to beneficiary/residents to be spent at his/her discretion.

This one-time payment of \$250 would not be part of the SSI/SSP "established rate." According to the California Code of Regulations Section 87464(e) if the resident is an SSI/SSP recipient, then the basic services shall be provided and/or made available at the

basic rate at no additional charge to the resident. Further, the Social Security Administration has interpreted the Code of Federal Regulations (CFR) (20 CFR 416.1102, 416.1103, and 416.1145) to mean that any contribution given directly to the facility on behalf of an SSI/SSP recipient will not count as income (i.e., will not reduce the recipient's SSI/SSP check) if the payment is used for items other than food, clothing or shelter (e.g. care and supervision). The resident would be entitled to the \$250 unless the resident voluntarily agreed to pay more than the "basic rate". This money would be part of the resident's Personal and Incidental monies. For more information on the stimulus package, visit the Social Security Administration website at <http://www.ssa.gov>.

POTENTIAL HELP FOR FINANCIAL HARDSHIP AND THE RCFE

On March 4, 2009, the Obama Administration released "Making Home Affordable." The release of detailed requirements for the "Making Home Affordable" program facilitates implementation of the critical provisions that will help bring relief to responsible homeowners struggling to make their mortgage payments, while preventing neighborhoods and communities from suffering the negative spillover effects of foreclosure such as lower housing prices, increased crime and higher taxes. Information related to this housing recovery plan can be found at: <http://treas.gov/press/releases/tg48.htm>. The San Francisco Chronicle provides additional information on "Making Home Affordable" at: <http://www.sfgate.com/cgi-bin/article.cgi?f=/n/a/2009/03/04/national/a144322S08.DTL%20>. Licensee/property owners are also encouraged to work directly with the lender to determine if alternative arrangements to foreclosure can be made.

As a reminder, if a licensee encounters activities related to bankruptcy or foreclosure, the licensee must notify the licensing agency. These types of activities are significant changes in operation and may affect the health and safety of residents in care. See CCR Title 22, Division 6, Chapter 8, Section 87211 Reporting Requirements.

211 COMMUNITY RESOURCE HOTLINE

211 is the dialing code for **free, 24-hour community, health and disaster information** in most counties and municipalities. 211 has been set aside by the Federal Communications Commission for the public to easily access community information. Callers receive personalized information from a live phone specialist who can answer questions about a variety of services and information. For general information see www.211.org. In California, 20 counties have active 211 dialing service. Visit www.211california.org for a complete list of California counties where 211 can be found, as well as other helpful information.

PEANUT BUTTER RECALL, OUTBREAK OF *SALMONELLA* TYPHIMURIUM INFECTIONS

While cases of infections related to peanut-containing products have not been reported in California, (per the Center for Disease Control, (CDC)), the case count is 654 in 44 states. The Federal Drug Administration (FDA) and CDC are concerned that illness will continue to occur if people eat recalled peanut-containing products that are still on their shelves at home. Consumers should check at home for recalled peanut butter containing products

and discard them. Consumers should also avoid eating products made with peanut butter, peanut paste, or other peanut-containing products if they are unsure whether these products have been recalled. For more information, visit the CDC website at: <http://www.cdc.gov/salmonella/typhimurium/update.html#features> or the Federal Drug Administration at: <http://www.fda.gov/>.

THE IMPORTANCE OF BLACK BOX WARNINGS AND MEDICATIONS

A black box warning (also sometimes called a black label warning or boxed warning) is a type of warning that appears on the package insert for prescription drugs that may cause serious adverse effects. It is so named for the black border that usually surrounds the text of the warning.

A black box warning means that medical studies indicate that the drug carries a significant risk of serious or even life-threatening adverse effects. It is the strongest warning that the FDA requires. It is essential for all licensees and caregivers to be familiar with Black Box data as these drugs may be associated with significant risk or require specific monitoring/handling to optimize efficacy and/or safety. The FDA requires black box warnings on medications such as: anti-depressants, some anti-biotics, diabetic medications, etc. For a complete list of black box medications see: <http://www.formularyproductions.com/blackbox>.

HOSPICE CARE IN RCFES

A number of RCFE providers currently facilitate the provision of hospice care through a licensed hospice agency in the RCFE setting. Other licensees may be considering hospice care. A hospice waiver may allow a terminally ill resident to remain in the facility until their death occurs or their needs can no longer be met within the scope of the license. The request for a waiver must be approved before any hospice care can be provided. The Department may deny a waiver request if the licensee is not in substantial compliance or does not demonstrate the ability to meet the care and supervision needs of residents.

Specific to hospice care and certain common disease processes, there are conditions that will occur with a great degree of predictability. Some of the prohibited health conditions, such as total care are highly predictable conditions for residents receiving hospice care. Licensees are encouraged to ask hospice agency staff questions about what they can expect in terms of the overall disease process for each hospice care resident. In understanding a resident's total care needs, a licensee is better able to determine if he/she can meet these needs. For example, when a resident becomes total care, what is role and responsibility of the licensee/facility staff? The licensee may need to hire additional staff to ensure sufficient care of all residents. If the licensee is willing and able to provide care for a prohibited health condition, such as total care, then the licensee can request an exception.

We have recently received questions from the provider industry about the necessity of total care exceptions for residents receiving licensed hospice care. CCLD is continuing to further explore options related to total care waivers and hospice care. Also, the Senior Care Policy Unit is in the process of updating the self-assessment guide for licensees who

choose to provide hospice care. In the meantime, questions and concerns related to hospice care can be directed to your licensing program analyst. Current regulations requiring exceptions for prohibited health conditions, including total care, are in effect until further notice.

CCLD STAFFING CHANGES. The Adult and Senior Care Program is pleased to inform you of eight promotions to Licensing Program Manager (LPM).

Timetra Faulcon is the new LPM for the San Jose Adult Care Local Unit. She was a Licensing Program Analyst (LPA) for eight years in that office. Timetra can be reached at (408) 324-2112.

Mary Troupe is a new LPM in the Greater Bay Area Licensing Office in Oakland. She was an LPA for seven years in the San Jose Office and also has experience in the children's residential program. Mary can be reached at (510) 286-4201.

Laurie Work is a new LPM in the Adult Care Program. She has been an LPA with the Child Care program for the last two and a half years. Laurie was promoted to Adult Laurie can be reached at (707) 588-5026

Kimberley Lyon became manager of the Adult Care Program unit in San Diego on March 2, 2009. Kimberley has been an Associate Government Program Analyst with Community Care Licensing working in the Carlsbad office for 4 years. Kimberley can be reached at (619) 767-2339.

Guillermina Tornero began her new position as an LPM for the Adult Care Program unit in Riverside on January 29, 2009. Guillermina has worked for Community Care Licensing Division for 19 years. She can be reached at (951) 782-4110.

Benita Yates is the new LPM in the Los Angeles Tri-County Office. She was an LPA for seven years in that office. Benita can be reached at (323) 980-4934.

Michael Smith is the new LPM for the Sacramento Senior Care Local Unit. He was an LPA for four years in the adult program. Michael can be reached at (916) 263-4700.

Robert Manos is the new LPM for the Riverside Senior Care Local Unit. He was an LPA for 5 years and also worked in the ombudsman program for 2 years. Robert can be reached at (951) 782-4207.

SUMMARY

If you have questions about this *Update* or suggestions for future topics, please contact Gary Levenson-Palmer, Chief of the Technical Assistance and Policy Branch, at (916) 324-4312. Please visit our website at www.cclid.ca.gov for copies of *Updates*, office locations, provider letters, regulations, or to learn more about licensing services.

Sincerely,

Original Signed By Jo Frederick

JO FREDERICK
Deputy Director
Community Care Licensing Division

Enclosures